

Members

Sen. Morris Mills, Co-Chairperson
Sen. Beverly Gard
Sen. Frank Mrvan
Sen. Glenn Howard
Sen. Timothy Lanane
Sen. James Lewis
Sen. David Long
Sen. James Merritt
Sen. Becky Skillman
Sen. Thomas Weatherwax
Sen. Gregory Server
Rep. James Bottorff, Co-Chairperson
Rep. Robert Behning
Rep. Richard Bodiker
Rep. James Atterholt
Rep. David Crooks
Rep. Susan Crosby
Rep. David Frizzell
Rep. Brian Hasler
Rep. Jack Lutz
Rep. Edmund Mahern
Rep. Bruce Munson
Rep. Paul Robertson
Rep. Scott Pelath
Rep. David Yount

LSA Staff:

Brian Tabor, Fiscal Analyst for the Committee
John Parkey, Fiscal Analyst for the Committee
Sarah Burkman, Attorney for the Committee

Authority: IC 8-1-2.6-4



REGULATORY FLEXIBILITY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 232-9588 Fax: (317) 232-2554

MEETING MINUTES¹

Meeting Date: October 17, 2000
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Morris Mills, Co-Chair; Sen. Beverly Gard; Sen. Frank Mrvan; Sen. Timothy Lanane; Sen. James Lewis; Sen. David Long; Sen. James Merritt; Sen. Becky Skillman; Sen. Thomas Weatherwax; Rep. James Bottorff, Co-Chair; Rep. Robert Behning; Rep. Richard Bodiker; Rep. James Atterholt; Rep. David Crooks; Rep. Susan Crosby; Rep. David Frizzell; Rep. Edmund Mahern; Rep. Bruce Munson; Rep. Scott Pelath; Rep. David Yount.

Members Absent: Sen. Glenn Howard; Sen. Gregory Server; Rep. Brian Hasler; Rep. Jack Lutz; Rep. Paul Robertson.

Senator Morris Mills and Representative James Bottorff, Co-Chairmen of the Regulatory Flexibility Committee, convened the Committee's second meeting shortly after 10:00 a.m. Chairman Mills stated three objectives for the day's testimony:

- (1) To provide a status report from the Indiana Utility Regulatory Commission (IURC);
- (2) to help legislators decide whether or not there should be changes in the regulation of telecommunications utilities; and
- (3) to identify new industry developments.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Annual Report on the Telecommunications Industry

Chairman Mills then recognized William McCarty, Chairman of the IURC. Chairman McCarty indicated that his presentation would touch on five major topics:

(1) **Settlements with incumbent telephone companies:** Chairman McCarty outlined the rate reductions, penalties, and other provisions in GTE's most recent agreement with the Commission (for a copy of the annual report and Chairman McCarty's presentation, see Exhibits A & B, respectively). He summarized the Sprint-United settlement, which also included penalties, rate reductions, and upgrades in service quality standards. A third settlement with Ameritech is pending before the IURC. It includes rate reductions for residential and business customers, infrastructure commitments, penalty provisions, and quality of service standards. Chairman McCarty stated that the IURC will continue to deliberate on this agreement for the next six to eight weeks.

(2) **Area code relief:** There are four area codes or numbering plan areas (NPAs) in Indiana at the present time, and the 219 NPA is in urgent need of relief due to number exhaustion. The IURC is currently investigating this issue and has held field meetings northern Indiana. The Chairman explained that there are two approaches to dividing an area code-- a geographic split and an overlay-- and outlined the pros and cons of each. The Chairman indicated that most new area codes recently added in the country have been overlays. The IURC is studying the allocation of "blocks" of new phone numbers to help determine a means of slowing number exhaustion, but the Federal Communication Commission (FCC) retains ultimate authority over this process.

(3) **Ameritech's compliance with Section 271 of the Telecommunications Act of 1996:** Chairman McCarty reported that there is an application before the Commission regarding Ameritech's compliance with Section 271(c) of the federal Telecommunications Act of 1996 (TA-96). He explained that Ameritech would like the IURC to find that there is a competitive environment and that there are no barriers to efficient interrelations between incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs). Such a finding would assist Ameritech in demonstrating to the FCC that it is compliant and should be allowed to compete in the long-distance market. Chairman McCarty stated that the IURC will act as a witness in such proceedings, but that the Commission's review of the application could take a year or perhaps longer.

(4) **Service quality:** Chairman McCarty informed the Committee that there are indicators of decline in Ameritech's service (and also in the Sprint-United area). He then presented data regarding the Commission's service standards and outlined Ameritech's performance. The Chairman also stated that new, more "pro-consumer" standards and rules would be in place by the end of the year. He explained that as a new settlement with Ameritech has not been approved, the IURC does not have the ability to fine the company.

The Chairman then provided an outline of recent events regarding Ameritech's problems. He stated that the position of the Commission is that standards should be met in sixty days (retroactive to September 22nd, 2000). He further stated that SBC Communications' (Ameritech's parent corporation) announcement that consumer credits would be given for problems dating from January 1, 2000 forward indicated that some progress has been made.

(5) **Slamming and cramming:** Chairman McCarty thanked the Committee for granting fining authority with respect to slamming and cramming in the 1999 legislative session. He presented data reflecting a marked decline in slamming and cramming complaints following the passage of HEA 1628 (1999). He further stated that this demonstrates the significant power of fining authority.

Chairman McCarty concluded his remarks by asking the General Assembly to seriously consider legislation in the 2001 session that grants the Commission both fining authority and review over mergers. The Chairman pledged that the ability to fine would be used wisely and judiciously. Chairman Bottorff asked about the level of fines the Commission would need, and Chairman McCarty responded that \$25,000 would probably be the minimum necessary to provide an effective deterrent.

Indiana Telecommunications Association

Chairman Mills then recognized Mr. John Koppin, President of the Indiana Telecommunications Association, who addressed the state of competition in Indiana. He noted that there is a recent trend towards businesses driven by the Internet. He stated that wireless Internet protocol and broadband services (cable modems, digital subscriber lines, etc.) are basically omitted from the IURC report despite tremendous growth in these areas. Mr. Koppin also expressed concern over the AOL-Time Warner merger and with the Intelenet Commission's "dabbling" in Internet service provision.

Mr. Koppin then turned to the issue of dividing the 219 area code. He opposed a geographic split and suggested overlaying the new area code to avoid political and social upheaval. He further stated that eighteen of the last nineteen area code additions in the US were overlays, and that there is support from officials in Fort Wayne and Lake County. Senator David Long stated that he resides in the 219 NPA and asked if upheaval might not also occur if neighbors had two different areas codes, requiring ten-digit dialing for local calls. Mr. Koppin responded that phone companies would prioritize their allocation of new numbers to keep 219 numbers together. Senator Long stated that his community was not entirely in favor of an overlay.

Ameritech Indiana

Chairman Mills then recognized Mr. Bill Soards, Director of Government Relations for Ameritech Indiana. Mr. Soards first read a letter from George Fleetwood, President of Ameritech Indiana. Mr. Fleetwood apologized for being unable to attend, but expressed that progress in service quality has been made in the past thirty days. He also indicated that increased demand has played a large role in the recent problems.

According to Mr. Fleetwood, an accelerated customer care program was initiated in the five-state Ameritech region on September 18th, 2000. 120 installation and repair employees have been transferred to Indiana, and 146 new permanent technicians will be hired before the end of the year. There has also been an expansion of training hours and facilities. These actions have helped to reduce repair orders by 61% and pending installations to be reduced by 21%.

Mr. Soards then introduced Ms. Jolynn Butler, Vice-President of Regulatory Affairs for Ameritech (for a copy of Ms. Butler's presentation, see Exhibit C). Ms. Butler apologized for the recent problems and noted that in the settlement currently before the IURC, Ameritech has agreed to subject itself to \$30 M (maximum) in service quality penalties. She added that whether or not Ameritech would support legislation establishing mandatory standards and fines depends on the reasonableness of standards, the fairness of penalties, and the applicability to all (not just ILECs).

Ms. Butler addressed Chairman McCarty's comments and stated that Ameritech cannot promise to reach the Commission's service goals in sixty days, however, they are committed to doing so by the end of the year. Ms. Butler then outlined plans to provide consumers with credits for service deficiencies. She also presented statistics regarding the number of local exchange lines lost by Ameritech to competition the growing rate of entry for CLECs. She stated that residential rates are subsidized by business customers, stifling competition. Ms.

Butler then spoke in favor of “rate rebalancing” and asked the Committee to support Ameritech’s goal of entering the long distance market.

Senator Mills asked Ms. Butler for her opinion on the IURC’s hearings and procedures. She responded that the Commission’s procedures are cumbersome and described their processes as quasi-legislative decision-making and felt that a judicial style (similar to the FCC) would be better. Chairman Mills then announced that the Committee would recess until 1:30 p.m.

Totalink of Indiana

Chairman Mills then introduced Mr. Mike Angie, President of Totalink of Indiana and CEO of Utilicom Networks (for a copy of Totalink’s handouts and presentation, see Exhibit D). Totalink provides a variety of data, video, and voice services to residential and business consumers and expects to be operating as the primary provider of broadband services in thirty cities by 2005. Mr. Angie introduced Mr. Rich Wadman, Vice-President of Field Operations and President of SIGECOM, Totalink’s Evansville unit. Mr. Wadman stated that Totalink entered the Evansville market about two years ago and has been in Indianapolis for only one month. Mr. Wadman explained how Totalink is able to bundle several services and provide combined billing.

Indiana Cable Telecommunications Association

The Chairman then recognized Ms. Dottie Hancock of the Indiana Cable Telecommunications Association. Ms. Hancock outlined the various methods consumers use to access Internet services and compared digital subscriber line (DSL) technology with cable modems. She presented market data showing that cable-based technology represents 84% of the high-speed web access market. She also explained how cable is used for educational programs and stated that nearly 1,800 schools in Indiana have been wired by cable companies. Ms. Hancock also addressed the issue of open access to Internet service (SCR 48) and stated that the cable industry has made some progress in allowing access to competitive ISPs, but that any regulatory action should be made at the federal level.

Citizens Action Coalition

Chairman Mills then recognized Mr. Mike Mullett representing Citizens Action Coalition. Mr Mullett suggested that the marketplace is undergoing a transition from control by a regulatory compact to control by a commercial contract. He stated that credibility and commitment to the consumer is essential, and that these are in jeopardy today. He outlined Ameritech’s current Opportunity Indiana agreement (for a copy of Mr. Mullet’s handouts, see Exhibit E) and asked that no future plan be approved without service quality constraints and objectives. He added that the Commission should follow the principles put forth in its official orders and suggested that basic service rates could be even lower than today’s prices, especially in light of high profitability in the industry.

Mr. Mullett addressed the issue of price caps and suggested that they be revised in any Opportunity Indiana 2000 agreement due to productivity increases. He also asked if it was prudent to regulate ILECS only to the extent they wish to be regulated and asked the Legislature to confer fining authority on the IURC. He cautioned that Ameritech is a branch of a multi-national telecommunications giant whose main concerns may lie outside Indiana’s borders.

Open Access to Internet Services (SCR 48): Verizon Communications

Mr. John F. Raposa was then recognized by Chairman Mills. Mr. Raposa addressed the convergence of networks and contrasted regulated monopolies with competitive markets (for a

copy of Mr. Raposa's presentation, see Exhibit F). He stated that cable represents 84% of the high-speed Internet access market and that it is essentially closed to competition. Mr. Raposa claimed that Time Warner has told other ISPs that they may offer their services only by paying two-thirds of their revenue to Time Warner. Mr. Raposa outlined recent court decisions and noted that the FCC has issued a "notice of inquiry" regarding this topic, however, this is a slow procedure designed only to determine if further procedures are warranted.

Time-Warner Telecommunications

Chairman Mills introduced Mr. Steve Jacob, Vice-President and Operations Manager for Time Warner Communications (for a copy of Mr. Jacob's handout, see Exhibit G). Mr. Jacob stated that Time Warner is in direct competition with ILECs as a CLEC (for business customers only). He stated that competition in the local exchange market is not robust, and that CLECs have an extremely difficult time interrelating with Ameritech (installation dates are missed, long holding times for service calls, delays in contract negotiations, etc). Senator Mills asked about universal service and Mr. Jacob responded that everyone should contribute provided that a "level playing field" exists.

Indiana Pay Telephone Association

The Chairman next recognized Mr. Tom Tucker, President of the Indiana Pay Telephone Association. Mr. Tucker stated that many of his organization's members operate payphones in low-income areas and provide a link to emergency service. He also stated that pay phone operators are "captive customers" and do not receive fair rates from ILECs as directed by TA-96. Mr. Tucker explained that based upon an informal survey, up to 80% of installation dates are missed and 30% are faulty and require follow-up appointments. He asked the Committee to consider providing a refund or credit to make up for lost revenue when service standards are not met.

Chairman Mills thanked Committee members and witnesses and then adjourned the meeting at approximately 3:30 p.m.